

HOUSE BILL 3359
By Pinion

AN ACT relative to a program of designating addresses for victims of domestic abuse and to amend Tennessee Code Annotated, Title 2, Title 36, Chapter 6, and all other appropriate sections.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 36, Chapter 6, is amended by adding Sections 2 through 11 as a new, appropriately designated part.

SECTION 2. The legislature finds that persons attempting to escape from actual or threatened domestic abuse frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this part is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic abuse, to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic abuse, and to enable state and local agencies to accept a program participant's use of an address designated by the secretary of state as a substitute mailing address.

SECTION 3. Unless the context clearly requires otherwise, the definitions in this section apply throughout this part.

(a) "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this part.

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(b) "Domestic abuse" means an act as defined in Section 36-3-601(1) and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

(c) "Program participant" means a person certified as a program participant under this part.

(d) "Victim" means any person who falls within the following categories and who a law enforcement officer has determined is not a primary aggressor under the factors set out in § 36-3-619(c):

(A) Adults or minors who are current or former spouses;

(B) Adults or minors who live together or who have lived together;

(C) Adults or minors who are dating or who have dated or who have or had a sexual relationship, [as used herein "dating" and "dated" do not include fraternization between two (2) individuals in a business or social context];

(D) Adults or minors related by blood or adoption;

(E) Adults or minors who are related or were formerly related by marriage; or

(F) Adult or minor children of a person in a relationship that is described in subdivisions (9)(A)-(E).

SECTION 4. (a) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person may apply to the secretary of state to have an address designated by the secretary of state to serve as the person's address or the address of the minor or incapacitated person. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state and if it contains:

(1) A sworn statement by the applicant that the applicant has good reason to believe:

(A) That the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic abuse; and

(B) That the applicant fears for the applicant's safety or for the safety of the applicant's children, or the safety of the minor or incapacitated person on whose behalf the application is made;

(2) A designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;

(3) The mailing address where the applicant can be contacted by the secretary of state, and the phone number or numbers where the applicant can be called by the secretary of state;

(4) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic abuse;

(5) The signature of the applicant and of any individual or representative of any office who assisted in the preparation of the application, and the date on which the applicant signed the application.

(b) Applications shall be filed with the office of the secretary of state.

(c) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four (4) years following the date of filing unless the certification is withdrawn or invalidated before that date. The secretary of state shall by rule establish a renewal procedure.

(d) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, shall be punishable under any applicable statutes.

SECTION 5. (a) If the program participant obtains a name change, the participant shall lose certification as a program participant.

(b) The secretary of state may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the secretary of state with seven (7) days' prior notice of the change of address.

(c) The secretary of state may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

(d) The secretary of state shall cancel certification of a program participant who applies using false information.

SECTION 6. (a) A program participant may request that state and local agencies use the address designated by the secretary of state as the participant's address. When creating a new public record, state and local agencies shall accept the address designated by the secretary of state as a program participant's substitute address, unless the secretary of state has determined that:

(1) The agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under this chapter; and

(2) This address will be used only for those statutory and administrative purposes.

(b) A program participant may use the address designated by the secretary of state as the participant's work address.

(c) The office of the secretary of state shall forward all first class mail to the appropriate program participants.

SECTION 7. (a) A program participant who is otherwise qualified to vote shall automatically receive absentee ballots for all elections in the jurisdictions for which that individual resides. The absentee ballot shall be transmitted to the program participant at the address designated in the participant's application. Neither the name nor the address of a program participant shall be included in any list of registered voters available to the public.

(b) The county auditor shall not make the participant's address contained in voter registration records available for public inspection or copying except under the following circumstances:

(1) If requested by a law enforcement agency, to the law enforcement agency; and

(2) If directed by a court order, to a person identified in the order.

SECTION 8. The secretary of state may not make a program participant's address, other than the address designated by the secretary of state, available for inspection or copying, except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency;

(b) If directed by a court order, to a person identified in the order; and

(c) If certification has been canceled.

SECTION 9. The secretary of state shall designate state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic abuse to assist persons applying to be program participants. Any assistance and counseling rendered by the office of the secretary of state or its designees to applicants shall in no way be construed as legal advice.

SECTION 10. The secretary of state may adopt rules to facilitate the administration of this part by state and local agencies.

SECTION 11. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law. For all other purposes this act shall take effect July 1, 1998, the public welfare requiring it.